

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Second Appeal No. 607/2006

(Vilas Sahadeorao Telgote **VERSUS** Kiran Vilasrao Telgote)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. Sambre, counsel for the appellant.

CORAM : Smt. Vasanti A. Naik, J.

DATE : 10th September, 2007.

Heard the learned counsel for the appellant.

The appellant is the original defendant. An application was filed by the plaintiff wife under the provisions of Section 25 of the Hindu Marriage Act for permanent alimony and maintenance. During the pendency of the proceedings, the trial Court permitted the wife to convert the proceedings under Section 25 of the Hindu Marriage Act to one under Section 18 of the Hindu Adoption and Maintenance Act. The matter proceeded before the trial Court and after considering the issue and the evidence involved therein, the trial Court granted a monthly maintenance of Rs.2,000/- to the respondent wife.

Being dissatisfied, the wife preferred a first appeal. The first appellate Court enhanced the amount of maintenance and granted maintenance at Rs.4,000/- per month. The present second appeal is filed against the judgment and decree passed by the trial as well as the first appellate Court.

Mr.Sambre, the learned counsel for the appellant, challenged the judgments passed by both

the Courts mainly on the ground that the trial Court was not justified in permitting the respondent to convert an application under Section 25 of the Hindu Marriage Act to one under Section 18 of the Hindu Adoption and Maintenance Act. According to the learned counsel for the appellant, the Hindu Adoption and Maintenance Act does not specifically provide for grant of such permission of conversion. The counsel for the appellant then challenged the judgment passed by the first appellate Court on the quantum of maintenance payable to the wife.

The submission made on behalf of the appellant is unacceptable. There was no bar for permitting the respondent to convert the application under Section 25 of the Hindu Marriage Act to one under Section 18 of the Hindu Adoptions and Maintenance Act. In fact, under both these provisions, the permanent alimony payable to the wife is determinable. The permission granted by the trial Court does not give rise to any substantial question of law. It is a matter of record that the appellant husband was earning an amount of Rs.21,000/- towards his salary. The appellant is working as Assistant Professor in the Panjabrao Krishi Vidyapeeth.

In the facts and circumstances of the case, it cannot be said that the monthly maintenance payable to the wife at Rs.4,000/- per month is excessive or on the higher side. The finding of the first appellate Court

in that regard is a pure finding of fact which does not give rise to any substantial question of law. For the aforesaid reasons, the second appeal is dismissed with no order as to costs.

APTE

JUDGE